

AN ORDINANCE

100654

DECLARING THE SINCLAIR ROAD AT ROSILLO CREEK PROJECT ("PROJECT") TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) BEING 0.494 ACRES OF LAND OUT OF A 1.812 ACRE TRACT OUT OF NEW CITY BLOCK 10780, (2) BEING A 0.016 OF AN ACRE TRACT OUT OF LOT 9, NEW CITY BLOCK 10780, WAUKESHA-PEARCE INC. SUBDIVISION; AND (3) BEING 5.041 ACRES OF LAND OUT OF A 133.502 ACRE TRACT OF LAND OUT OF NEW CITY BLOCK 18239; IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$33,242.00 FROM 2003-2007 GENERAL OBLIGATION DRAINAGE IMPROVEMENT BOND FUNDS FOR THE PROJECT, INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is further necessary to obtain and acquire the fee simple title in three (3) parcels of land for use as part of the Project and the property to be acquired is described in Section 3 below, and more fully in Attachment I attached hereto and incorporated herein for all purposes; and

WHEREAS, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

WHEREAS, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

WHEREAS, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

WHEREAS, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Sinclair Road at Rosillo Creek Project is hereby declared to be a necessary public project.

SECTION 2. The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to certain privately owned real property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Sinclair Road at Rosillo Creek Project in San Antonio, Bexar County, Texas.

SECTION 3. A specific public necessity exists to acquire by negotiation and/or condemnation; if necessary, the property more specifically described in **Attachment I** incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property".

SECTION 4. The approved compensation for the Property is shown in **Attachment II** which is attached hereto and incorporated herein for all purposes.

SECTION 5. The following financial adjustments are hereby authorized to affect this Ordinance:

A. The amount of \$33,242.00 is appropriated in SAP fund 45802011, 2003 General Obligation Drainage Improvement Bonds, Project definition GO-00044, WBS GO-00044-01-01-44 SAP GL account 6102100 - Interfund Transfers Out, entitled Transfer to 23-00160-90-04. The amount of \$ 33,242.00 is authorized to be transferred from SAP fund 45802011 to SAP fund 45099000.

B. The budget in SAP fund 45099000, General Obligation Drainage Bonds, Project Definition 23-00160 Sinclair Rd At Rosillo Creek Project, shall be revised by increasing WBS element 23-00160-90-04, entitled "TRF FR CO-00044-01-01-44", SAP GL Account 6101100 - Interfund Transfers In, by the amount of \$33,242.00.

C. The amount of \$ 16,942.00 appropriated in SAP fund 45-099000, General Obligation Bonds Capital Projects, SAP Project definition 23-00160, General Ledger Account 5201110, WBS Element 23-00160-03-02-04, entitled "Right of Way Acquisition", and is authorized to be encumbered for right of way acquisition, in connection with the Sinclair Road at Rosillo Creek Project.

D. The amount of \$ 4,000.00 appropriated in SAP fund 45-099000, General Obligation Bonds Capital Projects, SAP Project definition 23-00160, General Ledger Account 5201120, WBS Element 23-00160-03-02-03, entitled "Right of Way Legal", and is authorized to be encumbered for right of way legal, in connection with the Sinclair Road at Rosillo Creek Project.

E. The amount of \$ 3,500.00 appropriated in SAP fund 45-099000, General Obligation Bonds Capital Projects, SAP Project definition 23-00160, General Ledger Account 5201130, WBS Element 23-00160-03-02-02, entitled "Right of Way Appraisals", and is authorized to be encumbered for right of way appraisals, in connection with the Sinclair Road at Rosillo Creek Project.

F. The amount of \$ 8,800.00 appropriated in SAP fund 45-099000, General Obligation Bonds Capital Projects, SAP Project definition 23-00160, General Ledger Account 5209010, WBS Element 23-00160-03-02-05, entitled "Land Acquisition Cost", and is authorized to be encumbered for land acquisition cost, in connection with the Sinclair Road at Rosillo Creek Project.

G. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, the Interim City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP

Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 6. The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the Property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

SECTION 7. In the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Giuliani, L.L.P. (formerly Bracewell & Patterson, L.L.P.), and the law firm of Oppenheimer, Blend, Harrison & Tate, Inc. as special counsel as may be needed from time to time and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

SECTION 8. Staff is authorized to transfer funds within the project budget to accomplish the project, in accordance with established financial procedures.

SECTION 9. This Ordinance shall be effective on the 17th day of April, 2005.

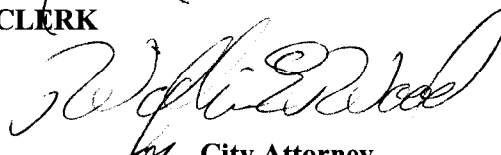
PASSED AND APPROVED this the 7th day of April, 2005.

ATTEST


CITY CLERK


M A Y O R
EDWARD D. GARZA

APPROVED AS TO FORM


City Attorney

Agenda Voting Results

Name: 11.

Date: 04/07/05

Time: 01:56:35 PM

Vote Type: Multiple selection

Description: An Ordinance declaring the Sinclair Road at Rosillo Creek Project ("Project") to be a public project; declaring a public necessity for the acquisition of the fee simple title to certain privately owned real property, by negotiations and/or condemnation, if necessary, for public improvements for use as a part of the Project; to wit, all or portions of the properties being described as: (1) being 0.494 acres of land out of a 1.812 acre tract out of New City Block 10780, (2) being a 0.016 of an acre tract out of lot 9, New City Block 10780, Waukesha-Pearce Inc. Subdivision; and (3) being 5.041 acres of land out of a 133.502 acre tract of land out of New City Block 18239; in the City of San Antonio, Bexar County, Texas, for a public purpose as part of the Project; establishing just compensation for the property; appropriating funds in the amount of \$33,242.00 from 2003-2007 General Obligation Drainage Improvement Bond funds for the Project, including miscellaneous expenses associated with the Project such as appraisals and attorney's fees; authorizing the City staff and/or its designated representatives to negotiate with and to acquire the property from the owners on the approved terms; authorizing the City Attorney and/or designated special counsel to file eminent domain proceedings, if necessary; and establishing an effective date. [Presented by Thomas G. Wendorf, Director, Public Works; Melissa Byrne Vossmer, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9	Not present			
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		